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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

October 5, 2001

Reply To
Attn Of: ECL-113

Jessie Hill Roberson
Assistant Secretary for Environmental Management
U.S. Department of Energy
Washington D.C. 20685

Re: Dispute Resolution, Idaho National Engineering and Environmental Laboratory
(INEEL) Operable Unit 7-10, Pit 9

Dear Ms. Roberson:

We are in receipt of your letter dated September 25, 2001, to Mr. Stephen Allred, Director, Idaho Department of Environmental Quality (IDEQ). In your letter, you identify the topics of agreement reached between the Department of Energy (DOE), IDEQ and the Environmental Protection Agency (EPA) representatives at the September 5th meeting in Boise, Idaho. In addition, staff participated in a conference on October 3, 2001, where they discussed potential milestones and how to settle the Pit 9 dispute. In response to your letter and, based on the results of our October 3rd conference call, we make the following observations:

1. We agree that the *mobile excavation*, now termed the *glovebox excavator method* should achieve a more cost-effective and timely excavation than achievable with the current Stage II design;
 2. Although we agree to limit the size of EPA's team for negotiation and settlement of the Pit 9 dispute, we will assemble an appropriately sized team for review of the design and work plans. Ms. Ann Williamson will be our lead for negotiations and oversight, supported by Wayne Pierre, our project manager for this site.
 3. Mr. Pierre will be our technical lead and will use other EPA staff and contractor personnel as appropriate to ensure a thorough technical review, in accordance with our CERCLA-120 Federal Facility Agreement and Consent Order (FFACO).
- A. Our initial reaction to the preconceptual design is that it lacks the detail necessary for our technical review of schedule, costs, assumptions or contingencies. It does, however, serve to support the goal of implementing the *glovebox excavator method* and identify two candidate deadline dates in the year 2002, i.e., completion of design and start of construction.
- B. We appreciate DOE's recognition of the importance of reviewing the Rocky

Flats pre-1970 waste inventory, installing probes and, as necessary, cores to provide TRU characterization data to support the Subsurface Disposal Area (SDA) comprehensive remedial investigation and feasibility study (RI/FS). Based on the schedule, the remedial investigation with baseline risk assessment of the RI/FS has a scheduled target date the end of October 2001. We understand from DOE Idaho staff that this critical document will not be submitted at that time, but instead, DOE plans to submit the full RI/FS on the deadline date in March 2003. We are very concerned that by not submitting the risk assessment and characterization data for review, DOE will submit an incomplete RI/FS. Should this be the case, and a situation similar to the original Pit 9 incomplete design submittal, DOE would be subject to stipulated penalties. We strongly believe that the information we will glean from the Pit 9 Stage II demonstration and additional characterization information is required to support the comprehensive SDA RI/FS.

4. We agree with the need and value provided from a pre-1970 assessment of the Rocky Flats Plant TRU wastes similar to that performed on the post-1970 wastes as described in the January 23, 1998, Acceptable Knowledge Document for INEEL Stored Transuranic Waste - Rocky Flats Plant Waste.

There are a few additional items that need to be resolved, e.g., linkage of the Pit 9 Stage II remedial action with the SDA comprehensive RI/FS, etc. However, I believe that we have achieved conceptual agreement on the path forward for Pit 9 Stage II and our staff can resolve the additional details in the development of our Settlement Agreement. We very much appreciate your attention to this issue and your assignment of capable staff to help negotiate a resolution.

Sincerely,


 For Ron Kreizenbeck, Acting Regional Administrator
 Region 10, Environmental Protection Agency

Enclosure:

cc: Stephen Allred, IDEQ
 Mark Frei, DOE-ID
 Warren Bergholz, DOE-ID
 Orville Green, IDEQ